

HEMPTON- PF/21/3314 - Demolition of existing building and erection of 3 no. two-bed dwelling houses, at land Between 13 & 19, Shereford Road, Hempton, Fakenham

Minor Development

Target Date: 07/02/2022

Extension of Time: TBC

Case Officer: Darryl Watson

Full Planning Permission

RELEVANT SITE CONSTRAINTS:

- The site is within the Countryside for the purposes of the Core Strategy's spatial strategy
- It is within the Hempton Conservation Area
- It is within the Zone of Influence of a number of European sites
- It is within the River Valleys (RV1) landscape type as defined in the North Norfolk Landscape Character Assessment
- The west part of the site is potentially contaminated land
- It is within the surface water catchment of the River Wensum, and Fakenham Water Treatment works discharges to the River Wensum Special Area of Conservation (SAC) which is affected by nutrient pollution.

RELEVANT PLANNING HISTORY:

PO/91/1239 (land at 17 Shereford Road) - Erection of bungalow - approved

PF/90/0864 (land Off Shereford Road) - Erection of pair of dwellings and garages - approved

PO/88/2931 (land at 13 Shereford Road) - Outline planning for residential building - approved

PF/89/1971 (land Off Shereford Road) - Erection of two dwellings - approved

PF/82/0893 (land at 13 Shereford Road) – Bungalow - approved

THE APPLICATION

Site Description:

The site comprises an area of land on the south side of Shereford Road between numbers 13 and 19. Apart from a narrow strip on the west end of the site, it is within the Hempton Conservation Area. The site is relatively level.

There is a small, corrugated metal clad workshop style building on part of the site with a concrete surfaced tack to it and a double garage beyond, adjacent to the site's rear boundary. The remainder of the site is grass, with some small trees and sections of hedge. Along the roadside boundary there is an old wall which is largely overgrown with vegetation, with an old access within it.

To the east of the site is a short terrace of old dwellings that sit just back from the road and to the west is a mid-20th century dormer bungalow at the end of a short row of dwellings of a similar age. To the south are larger warehouse style buildings forming part of the H. Banham Ltd (agricultural merchants) site off Raynham Road. A strip of land would be left between the rear boundary of the site and the north side of the buildings on the Banham's site.

Proposal:

Three, 2-bedroom two storey dwellings with single storey lean-to rear sections are proposed. There would be a pair of semi-detached dwellings and a detached dwelling. A new shared access to Shereford Road is proposed which would run to the west side of the detached dwelling. The properties would have a staggered frontage line with the easternmost dwelling set on the same line as the adjacent terrace of houses, with the western most dwelling's frontage set further back to be on the same line as the adjacent dwelling to the west.

The proposed dwellings would have a traditional appearance with external materials comprising flint walls with red brick detailing and red pantiles on the roof. Boundary treatments are not detailed. Each dwelling would have two car parking spaces served by the shared access.

REASONS FOR REFERRAL TO COMMITTEE:

In the interests of transparency as the agent for the application is a close relation to a member of the Council's Planning team.

CONSULTATIONS:

Hempton Parish Council: No objection subject to the dwellings being used for permanent residency only and not for second home use or holiday lets. Also serious consideration should be given to the affect additional vehicles would have on road access, bearing in mind the proximity to an already difficult junction

North Norfolk District Council Landscape: Do not wish to offer comments

North Norfolk District Council Conservation and Design: No objection - revised plans having satisfactorily addressed the earlier concerns. The amended scheme would preserve the appearance and character of this part of the Hempton Conservation Area. Conditions relating to external materials requested.

North Norfolk District Council Environmental Heath: Comments - note that part of the development area falls within the footprint of a former brickworks, but the exact location of the former site footprint is difficult to pinpoint. As such there is a potential contamination risk to the site. A condition requiring an assessment of the risks posed by any contamination to be carried out along with remediation if identified as being necessary, is recommended.

Norfolk County Council Highways: No objection – Suitable visibility splays can be provided from the repositioned access. Conditions relating to access and parking requested subject to conditions.

REPRESENTATIONS:

One received objecting, summarised as follows:

Proposal would put additional traffic on to the already very difficult and dangerous junction of Shereford Road on to the A1065. It is difficult to exit due extremely poor visibility caused by the bend on the A1065 coming from the Swaffham direction. This junction is used by the sugar beet lorries from Raynham Farms/British Sugar and causes more danger and congestion at the time of harvest.

Residential parking at the eastern end of Shereford Road is on-street, with no garages or off-road parking. This can cause blockages. The road is also used by the Police as a "rat run" when there is an accident on the A1065 to direct traffic away from the A1065 back on to the Kings Lynn Road.

HUMAN RIGHTS IMPLICATIONS

It is considered that the proposed development may raise issues relevant to:

Article 8: The Right to respect for private and family life.

Article 1 of the First Protocol: The right to peaceful enjoyment of possessions.

Having considered the likely impact on an individual's Human Rights, and the general interest of the public, refusal of this application as recommended is considered to be justified, proportionate and in accordance with planning law.

CRIME AND DISORDER ACT 1998 - SECTION 17

The application raises no significant crime and disorder issues.

EQUALITY AND DIVERSITY ISSUES

The application raises no significant equality and diversity issues.

LOCAL FINANCE CONSIDERATIONS

Under Section 70(2) of the Town and Country Planning Act 1990 the council is required when determining planning applications to have regard to any local finance considerations, so far as material to the application. Local finance considerations are not considered to be material to this case.

RELEVANT PLANNING POLICIES:

North Norfolk Core Strategy

SS 1: Spatial Strategy for North Norfolk
SS 2: Development in the Countryside
SS 4: Environment
EN 2: Protection and Enhancement of Landscape and Settlement Character
EN 4: Design
EN 6: Sustainable Construction and Energy Efficiency
EN 8 - Protecting and enhancing the historic environment
EN 9: Biodiversity & Geology
EN 13 - Pollution and hazard prevention and minimisation
CT 5: The Transport Impact of New Development
CT 6: Parking Provision

Material Considerations:

National Planning Policy Framework

Chapter 2: Achieving sustainable development
Chapter 4: Decision-making
Chapter 5: Delivering a sufficient supply of homes
Chapter 8 Promoting healthy and safe communities
Chapter 9: Promoting sustainable transport
Chapter 12: Achieving well-designed places
Chapter 15: Conserving and enhancing the natural environment
Chapter 16: Conserving and enhancing the historic environment

Supplementary Planning Documents and Guidance:

North Norfolk Design Guide (2008)
North Norfolk Landscape Character Assessment (2021)
North Norfolk Landscape Sensitivity Assessment (2021)
(there is currently not a conservation area appraisal for Hempton)

Other material documents/guidance:

Emerging North Norfolk Local Plan
Norfolk Green Infrastructure and Recreational Impact Avoidance and Mitigation Strategy - Habitats Regulations Assessment Strategy Document (2021)
Technical housing standards – nationally described space standard (March 2015)
Natural England's letter to local authorities relating to development proposals with the potential to affect water quality resulting in adverse nutrient impacts on habitats sites (March 2022)

OFFICER ASSESSMENT

Main issues for consideration:

1. Whether the site is a suitable location for new dwellings, having regard to accessibility to everyday local facilities and services by a range of modes of transport
2. The design/appearance of the proposed dwellings and their effect on the character and appearance of the Hempton Conservation Area
3. The effect of the proposed development on landscape features and the wider landscape
4. The effect of the proposed development on the living conditions of the occupiers of nearby dwellings and whether an acceptable living environment would be provided for the future occupiers.
5. The effect of the proposed development on highway safety and the surrounding highway network
6. Biodiversity and the effect of the proposed development on the integrity of habitats sites with regards to recreation impacts and nutrient neutrality.

1. Suitable location

In accordance with Section 38(6) of the Town and Country Planning Compulsory Purchase Act 2004, planning applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.

The development plan for the area currently includes the North Norfolk Local Development Framework Core Strategy (adopted September 2008), the Site Allocations Development Plan Document (February 2011), and the Minerals and Waste Development Framework - Core Strategy and Minerals and Waste Development Management Policies Development Plan Document 2010-2026. The National Planning Policy Framework (NPPF) constitutes guidance which the Local Planning Authority (LPA) must have regard to. The NPPF does not change the statutory status of the development plan as the starting point for decision making but is a material consideration.

The application site lies outside of any settlement listed in policy SS 1 of the North Norfolk Core Strategy (the CS) and as such is within the countryside for planning purposes. Within land designated as countryside, policy SS2 seeks to limit development other than that in accordance with a list of exceptions. New market housing as proposed in this case, is specifically restricted in order to prevent dispersed dwellings that will lead to a dependency on travel to reach basic services and ensure a more sustainable pattern of development. The proposal does not satisfy any of the exceptions set out in policy SS 2 of the CS. Policy SS 4 sets the aim that development will be located so as to reduce carbon emissions and mitigate and adapt to future climate change.

Recent appeal decisions including ref. APP/Y2620/W/24/3344911 - *site at The Roost, Mundesley Road, Trunch for a two-bedroom dwelling (decision date 25/01/2025)* continue to confirm that these policies and the Council's spatial strategy are in general accordance with the aim of the NPPF to promote development in sustainable locations with good transport access to existing facilities and services.

Paragraph 110 of the NPPF identifies that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Paragraph 115, states that in specific applications for development, it should be ensured that sustainable transport modes are prioritised taking account of the vision for the site, the type of development and its location.

Further, at paragraph 117 the NPPF advises that applications for development should give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas, second – so far as possible – to facilitating access to high quality public transport and create places that are safe, which minimise the scope for conflicts between pedestrians, cyclists and vehicles.

However, paragraph 110 sets out that opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in decision-making.

Also of relevance is the appeal decision (APP/Y2620/W/21/3276085) dated 17/01/2022 relating to land at Barons Meadow, Barons Hall Lane, Fakenham following the refusal of outline planning permission for the erection of two detached dwellings. This site was similarly located within the Countryside but unlike the current application site directly adjoined the settlement boundary, was next to a primary school, with separate footways and street lighting from the site to the town centre about 633 metres away as the crow flies.

The Inspector stated: *“I acknowledge that the services and facilities available within Fakenham would be easily accessible from the appeal site. The proposal also has the potential to result in some modest economic and social benefits for the area associated with the development of the site and its future occupation. However, the same could be said for many sites which sit adjacent to settlement boundaries. Such factors do not on their own mean that a site is suitably located having regard to the strategic objectives of the LP to direct new market housing to within defined settlement boundaries”*.

As with the current application, part of the site was considered to be previously developed land as it was occupied by a storage building. At the time of the decision however, the Inspector acknowledged that the Council could demonstrate a 5-year housing land supply stating *“therefore, there does not appear to be an urgent need to release land outside the settlement boundary for housing”*. He concluded that *“the development of two dwellings in the countryside would conflict with the spatial strategy for the area and for that reason would not deliver a sustainable form of development”*. It is considered that some weight should be attached to this decision.

The main built-up areas of Hempton are separated by the A1065 Raynham Road that runs north-south through the small Parish. Shereford Road and the application site are to the west of it. Within this area there are no everyday services or facilities. In the area to the east, which is closer to Fakenham’s Settlement Boundary there is a church, play area, community hall, garden centre and a public house.

Fakenham is the closest Principal Settlement and has a wide range of everyday service. It is approximately 0.65km from the site to the Settlement Boundary and 1.25km from the site to Fakenham's Market Place in the centre of the town. There is no current national planning guidance on acceptable walking distances, the NPPF simply emphasises the need to maximise sustainable transport solutions. Planning Policy Guidance 13: Transport suggested that *"walking is the most important mode of travel at the local level and offers the greatest potential to replace short car trips, particularly under two kilometres"*. The PPG was however, withdrawn following publication of the NPPF. Elsewhere it is suggested that *"800m, or approximately half a mile, is generally considered a standard walkable distance as it typically takes approximately 10 minutes to walk, and a 20 minute walking trip (1,600m total) has been found to be the longest distance a majority of people are willing to walk to meet their daily needs"*.

Given the above whilst some future occupiers of the development might choose to walk to Fakenham, they would likely be a very small minority. It is considered this would also be tempered by the fact that until close to the Settlement Boundary there is very little separate footway and no street lighting. There are no footways or lighting on Shereford Road, then a short section along the A1065 to an uncontrolled pedestrian crossing point. There is then a short section of rough surfaced track followed by an unsurfaced and uneven path across The Green. After crossing Pond Road, walking would be on Back Street which again has no separate footways or lighting. From the junction with Dereham Road, there is a separate footway with street lighting just beyond a point opposite the access to the racecourse. An alternative walking route via Back Street and Pond Lane only has a short section of separate footway and again, no lighting.

With regards to other sustainable modes of transport given the distance to the town centre, cycling would be a realistic option for some people, although those less experienced may be deterred by the lack of a segregated path, the need to cross the A1065 via staggered junction and the relatively high volume of traffic on Dereham Road.

There is an approximately hourly daytime bus service (Konnect Bus 21, 22, 23) Monday - Saturday that runs between Dereham and Fakenham. There is a stop with a shelter on the A1065 next to the junction with Shereford Road with an approximate journey time of 10 minutes to Oak Street, Fakenham. It is considered that the use of the bus would be a viable option for occupiers of the development to access the range of services in the town.

On balance, whilst the sustainability credentials of the site are clearly better than one in a more remote rural location within the Countryside, it is considered future occupiers of the development would still be largely reliant on the car to reach everyday services and facilities, although given the proximity of the site to Fakenham, it is acknowledged that some of the car journeys would likely be short. Being within the Countryside the site is however, deemed to be in an inherently unsustainable location under the current Core Strategy and noting the fact that it is currently proposed to remain so for the purposes of the emerging North Norfolk Local Plan and that Hempton has not been identified as a Growth Village. The proposed development is therefore contrary to CS policies SS1 and SS2 and the spatial strategy for North Norfolk which aims to achieve sustainable patterns of development.

2. Design, character and appearance

CS Policy EN 4 requires that all development should be designed to a high quality, reinforcing local distinctiveness, be expected to be suitably designed for the context within which they are set, and ensure that the scale and massing of buildings relate sympathetically to the surrounding area. Paragraph 135(c) of the NPPF sets out that developments should be sympathetic to local character and history, including the surrounding built environment, while not preventing or discouraging appropriate innovation or change.

CS policy EN 8 requires that development preserves or enhances the character and appearance of designated assets and their setting through high quality, sensitive design. It should be noted that the strict 'no harm permissible' clause in the policy is not in full conformity with the NPPF. As a result, in considering the proposal, regard must be had to the guidance in Chapter 16 of that document as a material consideration.

Paragraph 212 of the NPPF advises that when considering the impact of development on the significance of designated heritage assets, great weight should be given to their conservation. Paragraph 213 goes on to advise that significance can be harmed or lost from amongst other things, development within their setting and that this should have a clear and convincing justification.

The vast majority of the site is within the Hempton Conservation Area (CA). In its current state it does not make a positive contribution to the character and appearance of the CA. Whilst it is a generally open, gap site it is not important in this respect, noting the fact that development on the site has been permitted previously, after the CA was designated. It appears as an obvious infill site.

The site sits within the ribbon of development that extends westwards along the south side of Shereford Road and between the older terrace of properties to the east and generally mid-20th century dwellings to the west. The appearance and style of the existing dwellings along the road is mixed and there are both single and two storey properties, such that there is not a prevailing character.

The frontage line of the dwellings would be stepped to respond the frontage line of the dwellings on either side of the site. Their height, scale, appearance and the proposed external materials are considered to be appropriate for the context. It is considered subject to securing further design details via conditions, the proposed development would result in a minor enhancement of the character and appearance of the CA

For the reasons stated, and with the imposition of suitable conditions, the proposal is considered to be acceptable in terms of CS policies EN 4 and EN 8.

3. Landscape

Core Strategy Policy EN 2 sets out that proposals should be informed by, and be sympathetic to, the distinctive character areas identified in the North Norfolk Landscape Character Assessment (LCA). Development proposals should demonstrate that their location, scale, design, and materials would protect, conserve, and, where possible, enhance the special qualities and local distinctiveness of the area.

The site is within the River Valleys (RV 1) Landscape Character Type (as defined within the LCA). The LCA sets out that development proposals should seek to integrate within the existing settlements, reinforcing traditional character and vernacular.

As the proposed development would be an infill surrounded by existing development on three sides and given its height and scale would be similar, there would be no material harm to the wider landscape.

Whilst there are some small trees on the site, these need to be removed to accommodate the proposed development. They do, however, have very little amenity value. There would not be sufficient space within the site to provide any meaningful replacement planting. Given the immediate context and the built-up nature of the south side of Shereford Road, it is considered that the lack of any significant soft landscaping on the site is acceptable.

It is considered the proposal would accord with the aims of CS Policies EN 2 and EN 4.

4. Living conditions

Policy EN 4 of the Core Strategy requires that proposals should not have a significantly detrimental effect on the residential amenity of nearby occupiers. Paragraph 135 of the NPPF states that “*developments should create places with a high standard of amenity for existing and future users*”.

In terms of nearby occupiers, the 2 dwellings immediately adjacent to the site are 13 Shereford Road to the east and 19 Shereford Road to the west. Neither occupier has submitted representations. No 13 is an end terrace property with ground and first floor windows in its side elevation facing the site. It has not been possible to gain access to the property to ascertain what rooms these windows serve. Also in this elevation, there are a pair of French doors to a living room which also has a window in the front elevation. There is a single storey side extension with two windows facing the site which appear to serve a kitchen, and a glazed door to the rear. Other than a first-floor window to a bathroom, the flank wall of the proposed dwelling that would face the side of No 13 would be blank with a separation distance of approximately 7.15 metres. This would be below the recommended separation distance of 8.5m in the Amenity Criteria within the North Norfolk Design Guide (NNDG), assuming the first-floor windows are secondary.

There would be some loss of sunlight to both the ground floor windows and the northernmost first floor window in the side elevation of No. 13 in the latter part of the day. There would also be a loss of outlook and some overbearing impact. The separation distance would only slightly below that recommended in the NNDG and the erection of a 2m high fence along the common boundary as permitted development would have a similar impact on the ground floor windows. The southernmost of the first-floor windows would face the single storey rear part of the proposed dwelling and as such there would still be a reasonable outlook. There would also be a reasonable outlook albeit at an angle, from the other first floor window over the single storey section and the effect on sunlight/daylight received would only be for a small part of the day. There would be no materially harmful effect on the rear of No. 13 or its rear garden/amenity area. On balance, the relationship between the proposed development and No 13, is considered to be acceptable.

With regard to 19 Shereford Road, in its side elevation facing the site there is a window which appears to serve a garage rather than a habitable room, but again it has not been possible to gain access to verify this. There is also a window to a utility room/kitchen and a further small window which is obscure glazed. The separation distance between the utility room / kitchen window and the facing side elevation of the adjacent proposed dwelling would be approximately 4.95 metres. The NNDG recommends 3.0 metres in the case of a window to a utility room and 8.5 metres in the case of a kitchen window.

There would be some loss of outlook from the utility/kitchen window in the side elevation of No. 19 and some overshadowing and loss of daylight/sunlight during the early part of the day. This should be for a relatively short period of time due to the rear part of the proposed dwelling being single storey. Again, the erection of a 2m high fence along the common boundary as permitted development would have a similar impact on this window in terms of loss of outlook. It is considered there would be no materially harmful effects on the rear of No. 19 or that part of its rear garden closest to the property in terms of loss of privacy, light or outlook

On balance and for the reasons stated, the proposed development is considered to comply with the requirements of Core Strategy Policy EN 4 in terms of the effect on the occupiers of neighbouring dwellings.

In addition, It is considered that each of the proposed dwellings would have a reasonable outlook, levels of privacy and daylight. Two of the dwellings would have amenity areas slightly below that recommended in the NNDG, but not to an extent that would justify refusal. Whilst the commercial premises (H Banham) to the south is relatively close, it does not appear to generate any noise or activity that would be harmful to living conditions and there are existing dwellings similarly located close to it.

The proposed development therefore complies with the requirements of Core Strategy Policy EN 4 in this respect.

5. Highway impacts

CS Policy CT 5 requires development to provide safe and convenient access for all modes of transport, including access to the highway network. Paragraph 116 of the NPPF states that *“development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network, following mitigation, would be severe, taking into account all reasonable future scenarios”*.

As originally submitted, the proposed dwellings were to be served off the existing access to Raynham Road at the western end of the site’s frontage. In response to concerns regarding its width and restricted visibility raised by the Highway Authority, a new access further to the east and alterations to the siting of the dwellings is now proposed. This again would serve all the dwellings, with parking areas to rear of the site. Suitable visibility splays could now be provided, and subject to the imposition of relevant conditions requested by the Highway Authority, this has satisfactorily addressed their earlier concerns.

Based on the Trip Rate Information Computer System (TRiCs), which is a database of trip rates for developments, each of the proposed dwellings would generate 6 daily movements. Whilst the location of the site means that is likely that there would be a relatively high reliance on private car for most trips by occupiers of the development, and with consideration of the comments raised in the representation and by the Parish Council, no concerns have been raised in respect of the effect on the surrounding highway network in terms of safety or capacity. This is accepted.

It is therefore considered that with the conditions referred to, the proposed development complies with CS Policy CT 5.

Car parking

Policy CT 6 requires adequate vehicle parking facilities to be provided by the developer to serve the needs of the proposed development. Development proposals should make provision for vehicle parking in accordance with the Council's parking standards, including provision for people with disabilities. In exceptional circumstances, these standards may be varied where appropriately justified.

The NNDG states at paragraph 3.3.22 that "*in-curtilage' parking is recommended where possible to take advantage of personal surveillance and defensible space*". Each dwelling would have 2 parking spaces located to the rear of the site, which for 2-bedroom dwellings as proposed, complies with the current adopted parking standards at Appendix C of the CS. A condition to secure them prior to occupation and their subsequent retention thereafter is recommended. On that basis the proposal complies with CS policy CT 6.

No electric vehicle (EV) charging locations or details have been provided at this stage. The details and the provision of EV charging is required in order address the requirements of Emerging Policy CC 8, as well as the latest Building Regulations requirements. Again, this could be secured through a condition.

6. Biodiversity and effect on habitats sites

The Council has a duty under the Natural Environment and Rural Communities Act 2006 to have full regard to the purpose of conserving biodiversity which extends to being mindful of the legislation that considers protected species and their habitats and to the impact of the development upon sites designated for their ecological interest.

Core Strategy Policy SS 4 states that "*areas of biodiversity interest will be protected from harm, and the restoration, enhancement, expansion and linking of these areas to create green networks will be encouraged*". Policy EN 2 requires that development should protect, conserve and, where possible, enhance distinctive landscape features, such as woodland, trees and field boundaries, and their function as ecological corridors for dispersal of wildlife.

Policy EN 9 requires that all development should protect the biodiversity value of land and buildings and minimise the fragmentation of habitats, maximise opportunities for restoration, enhancement and connection of natural habitats and incorporate beneficial biodiversity conservation features where appropriate.

Paragraph 187 of the NPPF states that "*planning policies and decisions should contribute to and enhance the natural and local environment*". These include by protecting and enhancing sites of biodiversity value, minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures and incorporating features which support priority or threatened species.

Paragraph 193 advises that when determining planning applications, significant harm to biodiversity should be avoided, adequately mitigated, or, as a last resort, compensated for. Should this not be possible, then permission should be refused. Opportunities to incorporate biodiversity improvement in and around developments should be encouraged, especially where this can secure measurable net gains for biodiversity.

Due to the nature of the site, it was considered that a Preliminary Ecological Appraisal was not required as the potential for protected species to be present would be low. Notwithstanding this and the fact that the development would be exempt from the statutory biodiversity net gain requirements, in order to accord with the aims of Policy EN 9, the development should deliver some ecological enhancements such as the installation of bird boxes which could be secured through a condition. On that basis it is considered the proposal would comply with policy EN 9 in this respect.

There are no distinctive landscape features on the site or adjacent to it that would be affected by the proposed development. The proposal therefore complies with Policy EN 2 in this respect.

Nutrient Neutrality

Foul water disposal from the dwelling is proposed to be via the public sewer. This accords with the foul drainage hierarchy (Planning Practice Guidance Paragraph: 020 Reference ID: 34-020-20140306), where the first presumption is for new development to provide a system of foul drainage discharging into a public sewer to be treated at a public sewage treatment works (operated by a sewerage undertaker). In this case the public sewer connects to Fakenham Wastewater Treatment Works that discharges to the River Wensum which is a Special Area of Conservation (SAC). This is a phosphorus and nitrogen sensitive catchment area and long-term nutrient pollution has led to adverse impacts upon Habitats Sites including this, to the extent their condition is no longer considered favourable as set out in the guidance issued by Natural England on 16th March 2022.

This requires competent authorities to ensure any planning applications proposing a net gain in overnight accommodation (e.g. new homes) must evidence there will be no net increase in nutrient loads created within an affected catchment area as a result of the proposed development, i.e. the development will be nutrient neutral.

Based on the submitted and agreed Norfolk Budget Calculator, connecting the dwellings proposed would lead to an annual increase in nutrient discharge of 0.25 kg of Phosphorous/year and 4.08 kg of Nitrogen/year, thus mitigation would be required to provide an overall nutrient neutral development. The applicant has indicated mitigation is proposed through the purchase of credits. Once evidence of this has been provided to the Council, a Habitats Regulation Assessment would need to be completed and Natural England consulted.

Therefore, at this stage it cannot be demonstrated beyond reasonable scientific doubt, that the development would be nutrient neutral to enable the council, as competent authority, to confirm that it is acceptable in this respect and in accordance with CS policy EN 9.

Recreational Impacts

Norfolk local planning authorities (LPAs) have worked collaboratively to adopt and deliver a Green Infrastructure and Recreational Impact Avoidance and Mitigation (GIRAM) Strategy to ensure that the cumulative impacts of additional visitors, arising from new developments of housing and tourism to European sites, will not result in any likely significant effects which cannot be mitigated. The application site is within the Zone of Influence of a number of such sites with regards to potential recreational impacts.

In line with the RAM strategy a mechanism has been secured to ensure the appropriate financial contribution per dwelling prior to occupation as part of this proposal at the time planning permission is approved. It is considered that the contribution (£663.51) which was current at the time it was made, is sufficient to conclude that the project will not have an adverse effect on the integrity of the above identified European sites from recreational disturbance, when considered alone or 'in combination' with other development. As such the proposal complies with CS policy EN 9.

Biodiversity Net Gain (BNG)

Due to the date on which the application was submitted it is subject to the statutory exemptions and transitional arrangements in respect of the biodiversity gain condition.

Other matters

Energy efficiency - Core Strategy Policy EN 6 states that "new development will be required to demonstrate how it minimises resource and energy consumption and how it is located and designed to withstand the longer-term impacts of climate change". All developments are encouraged to incorporate on site renewable and / or decentralised renewable or low carbon energy sources, and regard should be given to the NNDG in consideration of the most appropriate technology for the site.

The applicant has been asked to consider the use of an air source heat pumps for the heating of the dwellings which can be secured by condition, to ensure that the proposed development would accord with Policy EN 6.

Previously developed ('brownfield') land – this is defined in Annex 2 of the NPPF as "land which has been lawfully developed and is or was occupied by a permanent structure and any fixed surface infrastructure associated with it, including the curtilage of the developed land..." There is an existing corrugated metal clad building on the northwest part of the site and a concrete surfaced driveway to it that extends to a double garage/workshop beyond. A photo believed to date from around 1975 has been supplied by the applicant which shows buildings on other parts of the site which, based on aerial photos that are available, were removed sometime between then and 1999, which no obvious remains of them now on site. While the extent of the curtilage of the development land is not clear, it is considered reasonable to conclude that part of the site at least is previously developed land.

Chapter 11 of the NPPF emphasises the need to make effective use of land. Paragraph 125c) states "planning...decisions should give substantial weight to the value of using suitable brownfield land in settlements for homes and other identified needs, proposals for which should be approved unless substantial harm would be caused". It is considered that the reuse of the land is a consideration that weighs in favour of the proposal.

Contamination – as referred to in the Environmental Health comments there is a possibility that part of the site could be contaminated. It is considered that a condition requiring a risk assessment to be carried out and then for remediation work should it be necessary, is sufficient to ensure there would be no public health and safety risks arising from the development. On that basis it complies with CS policy EN 13.

Permanent residency – the Parish Council’s comments regarding the dwellings being used for permanent residency only and not for second home use or holiday lets has been considered. Planning permission is not required to use a dwelling as a second home or in most cases for some holiday letting. Unlike Wells and Blakeney which have adopted Neighbourhood Plans with primary residency policies, there is currently no policy basis for controlling the use of dwellings in these ways through conditions for example, in other parts of the District.

PLANNING BALANCE AND CONCLUSION:

Because the Council cannot currently demonstrate a five-year supply of deliverable housing sites, the development plan policies which are most relevant for determining the application are considered to be out of date. Paragraph 11 (d) of the NPPF requires that planning decisions should apply the presumption in favour of sustainable development.

In such circumstances paragraph 11d) indicates that planning permission should be granted unless:

- i) the application of policies in the NPPF that protect areas or assets of particular importance (which includes designated heritage assets) provides a strong reason for refusing the development proposed; or
- ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole, having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes, individually or in combination.

With regards to paragraph 11d) i), Officers have concluded that there are no strong reasons for refusing this particular development. Applying paragraph 11 d) ii), the proposed development can be acceptable all respects other than in principle because of the site’s unsustainable location. This identified harm needs to be weighed against the benefit of the proposed development.

The main benefits are

Economic – these would be provided through the construction of the development with work for local contractors, trades people and suppliers. This, however, would be limited and short lived. Occupiers of the development would contribute to the local economy by spending within the surrounding area and the wider District.

Social – the provision of three dwellings would add to choice and mix locally, increasing social cohesion and community as well as making a modest contribution to the District’s housing land supply. The development is likely to be deliverable in the short-term given that nutrient credits have been secured in principle.

Environmental – the development would involve the reuse of a site part of which is previously developed / brownfield land. It would also fill in a gap of no particular value within the streetscene and conservation area. The buildings would be energy efficient and make use of renewable energy sources. Some minor biodiversity gains could be secured through a condition.

On balance, it is considered that the benefits of the proposal outweigh the adverse impacts of the development when assessed against the policies in the NPPF taken as a whole.

The rationale for recommending approval for this application when compared to many other 'countryside' proposals which the Council had refused – and defended successfully on appeal can be summarised by:

- this site is close to the boundary of one of our main town's;
- parts of the site are 'previously developed';
- the council cannot demonstrate a 5 year housing land supply (so paragraph 11(d) of the NPPF is relevant);
- three homes will make a more meaningful difference in supply terms than instances where the Council has generally been successful on appeal (i.e. for 1 or two homes); and,
- the latest change to the NPPF requiring a need for 'strong reasons' for refusal has further tipped the balance in favour of this proposal.

With the applicant's intention is to purchase credits to ensure the proposed development is nutrient neutral, once secured, the development would not result in harm to the integrity of habitats sites and would accord with paragraph 193 of the NPPF. This does need to be done prior to an approval being issued.

As such, the recommendation is one of approval.

RECOMMENDATION:

Delegate APPROVAL to the Assistant Director - Planning subject to:

The prior receipt of an appropriate Credit Certificate from Norfolk Environmental Credits and thereafter there being no objection raised from Natural England following further consultation.

The imposition of conditions to cover the matters listed below:

- Time limit for commencement
- Approved plans
- External materials
- Details of windows
- Boundary treatments including to frontage
- Biodiversity enhancement
- Contamination
- Access construction
- Gradient of access not to exceed 1:12
- Visibility splays either side of access
- Car parking provision

Final wording of conditions and any others considered necessary to be delegated to the Assistant Director of Planning.